

**CHAPTER 40**  
**STOCKBRIDGE-MUNSEE TRIBAL LAW**  
**LAND ORDINANCE**

Relating to the Regulation and Utilization of Tribal Land

**Statement of Purpose:** An ordinance to provide for the common benefit of the members of the Stockbridge-Munsee Band of Mohican Indians through the establishment of procedures governing the assignment of land to individual Tribal members.

**Section 40.1 Interpretation**

This ordinance shall be deemed a reasonable and proper exercise of the sovereign power of the Stockbridge-Munsee Tribe for the protection of the Tribe's land, welfare, health, peace and culture. All provisions of this ordinance shall be liberally construed for the accomplishment of these purposes.

**Section 40.2 Definitions**

In this ordinance, unless the context otherwise requires:

- (A) "Tribal Land" means any land within the boundaries of the Stockbridge-Munsee Reservation as established by the Treaty of 1856, 11 Stat. 679, where the Title is held in trust for the benefit of the Stockbridge-Munsee Tribe and any land owned by the Tribe.
- (B) "Land Assignment" means any tribal land which, through the written consent of the Stockbridge-Munsee Tribal Council, is designated for the use or occupancy of enrolled Tribal members either for residential or recreational purposes.
- (C) "Land Committee" means the members of the Stockbridge-Munsee Tribe serving as an investigatory and advisory body to the Stockbridge-Munsee Tribal Council in reviewing land assignment applications.
- (D) "Tribe" means the Stockbridge-Munsee Band of Mohican Indians.
- (E) "Tribal Council" means the authorized, governing body of the Tribe.
- (F) "Grantee" means an enrolled Tribal member who has received an approved land assignment from the Stockbridge-Munsee Tribe.

**Section 40.3 General**

- (A) Only enrolled members of the Tribe who are eighteen years of age or older are eligible for

land assignments.

(B) Assignments of land shall be made by the Tribal Council on the basis of need for residential or recreational purposes.

(C) No assignment will be made in excess of five acres if such application for an assignment is dated after June 15, 1979.

(D) Grant assignments approved and issued prior to June 15, 1979 are hereby declared valid notwithstanding the five acre limit imposed by s. 4 (c) of this ordinance.

(E) Enrolled members may hold either a residential or a recreational assignment of Tribal land.

#### **Section 40.4 Land Committee**

(A) Committee.

(1) The Tribal Council shall establish a five member land committee from among the enrolled members.

(2) In no event shall a member of the land committee serve as a member of the Tribal Council during the term of his/her appointment as a land committee member.

(3) All appointments shall be for a two year term.

(4) The Tribal Council retains the authority to remove any appointed committee member at will for just cause and to appoint another Tribal member to fill the vacant seat.

(B) Powers and Responsibilities of the Committee. The Land Committee shall exercise the following powers and responsibilities:

(1) Accept land applications and requests for permits of temporary use. Investigate and review all applicable resources and information to determine the suitability of the request;

(2) Present data, along with the committee's recommendation to the Tribal Council on grant or denial of the application;

(3) Advise the Tribal Council in matters relating to Tribal land use;

(4) Submit recommendations and reports to Tribal Council on land-related issues. All such recommendations and reports shall be in writing, bearing the signatures of at least three Land Committee members.

(5) Perform any other land-related duties or functions prescribed by the Tribal Council.

## **Section 40.5 Land Assignments**

(A) Land Assignments are hereby acknowledged to be a valid contract between the Tribe and the Grantee. Land Assignments issued prior to the effective date of this ordinance are hereby reaffirmed and reacknowledged as valid contracts between the Tribe and Grantee. Land assignments made after July 2, 2002 shall be identified as either residential or recreational assignments.

(1) Residential assignments shall be buildable sites.

(2) Recreational assignments are not intended to be residences for the grantee. Examples of recreational uses include: camping, vacationing, picnicking, and temporary hunting camp. Recreational assignments are not be used to circumvent other provisions of Tribal law. Grantees may not build permanent structures on recreational assignments.

(B) In addition to the terms and conditions imposed by this ordinance, all assignments shall be subject to all terms and conditions contained in the Land Use Code and other applicable codes.

(C) All grantees shall be required, upon the written request of the Tribal Council, to comply with any soil, water, or timber conservation program that may be initiated by the Tribal Council.

(D) Structures shall be built in accordance with applicable Tribal rules, regulations, and ordinances.

(E) No person shall have the right to occupy or use Tribal land or Tribal resources thereon, without the written approval of the Tribal Council. Written approval may be evidenced by the terms of the land assignment and/or any applicable Tribal permits.

(F) The grantee may designate in writing his/her named beneficiaries to such land assignment. Such reassignments shall be issued following an application for reassignment and a Tribal Council determination that the land subject to the assignment is available and not required for a Tribal public purpose. Such reassignments are also subject to the restrictions set forth in this ordinance.

(G) If a grantee is married to a non-member of the Tribe and dies without issue, the surviving non-member spouse shall be entitled to occupy the residential assignment and to use an amount of land sufficient for a subsistence garden for his/her lifetime or until marriage to a non-member of the Tribe, whichever occurs first. If the surviving non-member spouse does not wish to remain on the assignment, said spouse shall receive compensation from the new grantee for the value of all improvements placed by the deceased grantee and not otherwise disposed. Upon termination of the surviving non-member spouse's right to use and occupy said assignment, such surviving non-member spouse shall have a reasonable period of time, not to exceed six (6) months to vacate said assignment.

## **Section 40.6 Temporary Permits**

(A) Permits for temporary use and occupancy of Tribal lands may be granted by Resolution of the Tribal Council, at its discretion.

(B) Said temporary permits shall be subject to any terms, conditions, and qualifications designated under this ordinance and any other applicable Tribal ordinance, rule, regulation, or policy.

#### **Section 40.7 Violation: Jurisdiction**

(A) Any person who violates any provision of this ordinance or any rule or regulation authorized thereunder, shall be guilty of a Tribal Civil offense punishable by a fine of not more than five hundred dollars (\$500.00).

(B) The Stockbridge-Munsee Tribal Court shall have jurisdiction over all violations of this ordinance and over all persons who are recipients of a temporary permit issued pursuant thereto, and may, in addition to the penalty described in Section 40.8 (A), grant such other relief as is necessary and proper for the enforcement of this ordinance.

#### **LEGISLATIVE HISTORY**

Ordinance No. 11-A Lands, as adopted by the Stockbridge-Munsee Tribal Council Nov. 21, 1939 and returned by BIA for lack of signature space. (10/15/40 BIA Letter to Chairman); Ordinance No. 1 Lands as adopted by the Stockbridge Munsee Tribal Council on Sept. 27, 1940 and approved by the Department of the Interior, June 30, 1941 and as amended by Stockbridge-Munsee Resolution No. 0663 (June 15, 1979). See also Tribal Agricultural Land Standard Assignment (Form approved by the Secretary of the Interior June 30, 1941) and Grant of Standard Assignment (Form approved June 30, 1941 as amended by Stockbridge Munsee Resolution No. 0988, July 15, 1986); and Tribal Council meeting minutes of January 2, 1975, June 15, 1979, and April 1, 1986.

A new land ordinance approved for adoption by Tribal Council on March 3, 1987, by Resolution No. 0988, as presented herein.

Legislative attorney's note: Sections 40.3(B) (deleting the word exclusive), 40.5(B)(4) (reflecting the time frame for improvements be three years), 40.6(A) (deleting Secretary of Interior Approval), and 40.6(F) (deleting the word exploit) amended by Tribal Council on June 12, 1987, Resolution No. 1037. However, the amendment had not been incorporated into the Ordinance. Upon this discovery, the amendment was incorporated into the Ordinance on July 27, 2000 by the Legal Department.

Section 8 (B) which is now Section 40.8 (B) amended by Resolution 1552-95 on Nov. 7, 1995 by replacing Tribal Council with Tribal Court.

Several amendments and other modifications adopted by Tribal Council on August 20, 2002, by

Resolution No. 045-02. Section 40.1, Short Title is deleted, resulting in the other sections being renumbered. Other sections deleted were Section 40.5 [now 40.4] (B)(3), (B)(4), (B)(7), (B)(8), and Section 40.6 [now 40.5] (D), (G), (J). Sections amended were 40.2 [now 40.1], 40.3 [now 40.2] (A), (B), 40.4 [now 40.3] (A), (B), (C), (D), (E), 40.5 [now 40.4] (A)(1), (A)(3), (A)(4), (B)(1), (B)(2), (B)(5) [now (B)(3)], (B)(6) [now (B)(4)], (B)(9) [now (B)(5)], 40.6 (now 40.5) (A)(1), (A)(2), (B), (E) [now (D)], (H) [now (F)], (I) [now (G)]. Approved by BIA on September 18, 2002.